

REMARKS

Reconsideration of this application in light of the present amendment and remarks is respectfully requested.

Claims 1, 4-11, 13 and 16-21 have been rejected.

Claims 2, 3, 12, 14, 15 and 22-25 were previously cancelled.

Claims 6 and 18 have been cancelled, without prejudice.

Claims 1 and 13 have been amended.

Claims 1, 4, 5, 7-11, 13, 16, 17 and 19-21 are pending in this application.

Claims 1, 4-11, 13 and 16-21 have been rejected under 35 U.S.C. §103(a) as being unpatentable by Chou et al (US Publ. 2004/0205752, hereinafter “Chou”) in view of Toskala et al (US 6,374,118, hereinafter “Toskala”). This rejection is respectfully traversed.

Independent claim 1 has been amended to incorporate the recitations of claim 6 to specifically describe how the power control is dependent upon a delay tolerance comparison. Originally in claim 1, the power control is dominated by the service having the least delay tolerance. As amended, claim 1 now monitors the target changes for *all* the different services and chooses the largest target change of *any* of those services to add to the power control of the dominant service (having the least delay tolerance). In this way, any of the lesser dominant services can change the power control originally set by the dominant service.

Chou also describes power control that is controlled by the service having the most stringent QoS (e.g. least delay tolerance). The Examiner recognizes however that Chou fails to disclose power control dependent upon a QoS or delay tolerance comparison.

Toskala describes periodic target calculations, but only for the one selected (i.e. most stringent) service (col. 6 lines 35-37 and col. 7 lines 33-37). Further, Toskala does not describe performing the periodic target calculation for *all* of the services, but only for the one selected (i.e. most stringent) service (col. 6 lines 39-52). It is only when the one selected (i.e. most stringent) service drops out (col. 6 lines 53-59) that Toskala then considers the target for *any* of the other services, and then only for the *next* most stringent service. Therefore, Toskala continually re-targets power control only considering the presently operating service having the most stringent QoS, which teaches away from applicants’ invention. In contrast, applicants’ invention will re-target power control considering *any* service, without regard to whether that service has the most stringent QoS, and specifically for *any* service that exhibits the largest change in target. In this way, applicants allow that a less stringent service is used to modify the power control originally based on the most stringent service.

Accordingly, applicants respectfully submit that Chou or Toskala, in combination or alone, are missing at least the elements of: a) performing periodic target calculations for *all* of the services, and therefore could not have envisioned the further elements of b) comparing the respective target changes of *all* of the services and c) choosing the largest target change therefrom, and therefore could not have envisioned the further element of d) changing the power target by the chosen largest target change, even if such largest target change is from a less stringent service.

As these references are missing these many elements of amended claim 1, as detailed above, applicant respectfully submits that claim 1 is deemed to be allowable.

Independent claims 13 was also previously amended to include the same recitations, as detailed with respect to claim 1 above (incorporating claim 18), and is deemed allowable as well for the same reason.

Regarding claims 8 and 20, claims 8 and 20 describe the monitors the targets for *all* the different services and chooses those services having a target more than a predetermined amount from the target of the dominant service. The data rates of those chosen services are then changed to increase their quality to more closely match that of the dominant service. In this way, the lesser dominant services can operate better within the power control originally set by the dominant service.

Chou has been distinguished over previously. Applicants' distinguishing remarks providing the benefits of applicants' invention and disadvantages of Chou, to the extent applicable, are hereby incorporated by reference.

Toskala describes periodic target calculations, but only for the one selected (i.e. most stringent) service (col. 6 lines 35-37 and col. 7 lines 33-37). Further, Toskala does not describe performing the periodic target calculation for *all* of the services, but only for the one selected (i.e. most stringent) service (col. 6 lines 39-52). Moreover, Toskala does not consider if the target differences for any of these lesser services exceed a threshold, and does not consider change a data rate of lesser services to increase their quality. In contrast, applicants' invention will determine if a target of a lesser service drops too far below the target of the dominant service for too long a time, and adjust its data rate to improve its quality above such thresholds. In this way, applicants allow that a less stringent service can be adapted to operate better within the power control originally set by the most stringent service.

Accordingly, applicants respectfully submit that Chou or Toskala, in combination or alone, are missing at least the elements of: a) performing periodic target calculations for *all* of the services, b) determining if any of the service drop below a target threshold, and c)

determining if any of the service drop below a target threshold for too long a time, and therefore could not have envisioned the further elements of e) comparing the respective targets of *all* of the services, f) determining those below one or more thresholds, and g) adjust a data rate to improve quality above such thresholds.

As these references are missing these many elements of claims 8 and 20, as detailed above, applicant respectfully submits that claims 8 and 20 are deemed to be allowable.

Moreover, claims 4, 5 and 7-11 are dependent on amended claim 1, hereby incorporated by reference, and are therefore deemed allowable as well for the same reasons. Similarly, claims 16, 17 and 19-21 are dependent on amended claim 13, hereby incorporated by reference, and are therefore deemed allowable as well for the same reasons.

Accordingly, applicants respectfully request that this rejection be withdrawn.

The other references of record have been reviewed and applicant's invention is deemed patentably distinct and nonobvious over each taken alone or in combination.

For the foregoing reasons, applicants respectfully request that the above rejections be withdrawn.

Inasmuch as this amendment distinguishes all of the applicants' claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicants' attorney at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection or through an Examiner's amendment.

Authorization is hereby given to charge any fees necessitated by actions taken herein to Deposit Account 50-2117.

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